

Matthew I. Knepper, Esq.
Nevada Bar No. 12796
Miles N. Clark, Esq.
Nevada Bar No. 13848
KNEPPER & CLARK LLC
5510 So. Fort Apache Rd, Suite 30
Las Vegas, NV 89148
Phone: (702) 856-7430
Fax: (702) 447-8048
Email: matthew.knepper@knepperclark.com
Email: miles.clark@knepperclark.com

Counsel for Plaintiff
Alan Warenski

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALAN WARENSKI,

Plaintiff,

v.

CHARTER COMMUNICATIONS doing
business as SPECTRUM,

Defendant.

Case No. 2:19-cv-00101-RFB-NJK

JOINT STATUS REPORT

Complaint filed: January 17, 2019

Plaintiff Alan Warenski (“Plaintiff”) and Defendant Charter Communications doing business as Spectrum (“Spectrum”) (collectively, the “Parties”), by and through their counsel of record, hereby file the following status report as instructed by the Court in its Minute Order dated August 6, 2021 [ECF No. 59].

1. On August 11, 2020, the Parties reached a stipulation to stay the proceedings in this matter pending a ruling from the Supreme Court in the Ninth Circuit, in *Facebook, Inc. v. Duguid*, No. 19-511 (Jan. 9, 2020) (“*Duguid*”) as they believed awaiting a definitive resolution of the

1 controlling definition of an ATDS would provide necessary clarification for the TCPA claim in this
2 case .[ECF No. 56].¹

3 2. On August 12, 2020, the Court granted the Parties' stipulation and stayed the
4 proceedings until a decision in *Duguid* was reached. [ECF No. 57].

5 3. Apart from the TCPA claims, the only claim in the First Amended Complaint [ECF
6 No. 12] is for alleged violations of Nevada Revised Statutes Chapter 598.0918 and 41.600. *See*
7 Count III. On April 8, 2019, Charter moved to dismiss the Nevada claims and moved to dismiss
8 and/or to transfer the TCPA claims under the "first-to-file" rule. [ECF No. 17]. Charter's motion
9 to dismiss was Nevada claims was fully briefed [ECF Nos. 19, 23]. Charter later withdrew its
10 motion to dismiss and/or to transfer [ECF Nos. 31-2] after the first-filed action settled. On October
11 14, 2019, Charter filed its motion to dismiss the Nevada state law claims. [ECF No. 33]. On
12 October 8, 2020, the Court entered a "minute order in chambers" denying Charter's motion to
13 dismiss the state law claims without prejudice pending resolution of the *Duguid* decision, stating
14 that the motion could be refiled thereafter. [ECF No. 58].
15
16

17 4. On April 1, 2021, the Supreme Court ruled in the *Duguid* matter.

18 5. Subsequently, the Parties have commenced meeting and conferring on the impact
19 of the *Duguid* matter on Plaintiff's TCPA claims and as to whether this matter can be resolved or
20 narrowed without the necessity of motion practice. Those discussions bear not only on the TCPA
21 claims, but also on whether Charter will need to file another motion regarding the Nevada claims.
22 Consequently, the Parties request the opportunity to advise the Court of the results of these efforts
23

24 ///

25 ///

26

27

28

no later than 21 days from the date of this filing. At that time, if the Court permits, the Parties will also advise the Court as to whether a new scheduling order is appropriate.

DATED: August 9, 2021.

KNEPPER & CLARK LLC

/s/ Miles N. Clark

Matthew I. Knepper, Esq., SBN 12796
Miles N. Clark, Esq., SBN 13848
KNEPPER & CLARK LLC
5510 So. Fort Apache Rd, Suite 30
Las Vegas, NV 89148
Phone: (702) 856-7430
Fax: (702) 447-8048
Email: matthew.knepper@knepperclark.com
Email: miles.clark@knepperclark.com

Counsel for Plaintiff
Alan Warenski
Counsel for Plaintiff

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Patrick J. Reilly

Patrick J. Reilly, Esq., SBN 6103
100 N City Pkwy., Suite 1600
Las Vegas, NV 89106
Email: preilly@bhfs.com

THOMPSON COBURN LLP

Matthew Guletz, Esq.
(Admitted Pro Hac Vice)
One U.S. Bank Plaza
St. Louis, MO 63101
Email: mguletz@thompsoncoburn.com

Counsel for Defendant
Charter Communications dba Spectrum